

# HOUSE BILL No. 1103

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-36-9-1; IC 35-42-1; IC 35-50-2-8.3.

**Synopsis:** Capital murder. Creates the criminal offense of capital murder. Provides that a conviction for capital murder results in a sentence of death unless: (1) a court determines that mitigating factors outweigh aggravating factors; or (2) the defendant is found to be mentally retarded.

**Effective:** July 1, 2003.

## Bottorff

January 7, 2003, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1103

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-36-9-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter applies  
3 when a defendant is charged with:

4 (1) a murder for which the state seeks a death sentence under  
5 IC 35-50-2-9; or

6 (2) **capital murder under IC 35-42-1-1.5.**

7 SECTION 2. IC 35-42-1-1, AS AMENDED BY P.L.17-2001,  
8 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2003]: Sec. 1. A person who:

10 (1) knowingly or intentionally kills another human being;

11 (2) kills another human being while committing or attempting to  
12 commit arson, burglary, ~~child molesting~~, consumer product  
13 tampering, ~~criminal deviate conduct~~, kidnapping, ~~rape~~, robbery,  
14 or carjacking;

15 (3) kills another human being while committing or attempting to  
16 commit:

17 (A) dealing in or manufacturing cocaine, a narcotic drug, or



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1           methamphetamine (IC 35-48-4-1);  
 2           (B) dealing in a schedule I, II, or III controlled substance  
 3           (IC 35-48-4-2);  
 4           (C) dealing in a schedule IV controlled substance  
 5           (IC 35-48-4-3); or  
 6           (D) dealing in a schedule V controlled substance; or  
 7           (4) knowingly or intentionally kills a fetus that has attained  
 8           viability (as defined in IC 16-18-2-365);  
 9           commits murder, a felony.

10          SECTION 3. IC 35-42-1-1.5 IS ADDED TO THE INDIANA CODE  
 11          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 12          1, 2003]: **Sec. 1.5. A person who kills another person as part of an**  
 13          **episode of criminal conduct (as defined in IC 35-50-1-2(b)) in**  
 14          **which the person commits or attempts to commit child molesting**  
 15          **(IC 35-42-4-3), criminal deviate conduct (IC 35-42-4-2), or rape**  
 16          **(IC 35-42-4-1) against the other person commits capital murder.**

17          SECTION 4. IC 35-50-2-8.3 IS ADDED TO THE INDIANA CODE  
 18          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 19          1, 2003]: **Sec. 8.3. (a) The presumptive sentence for a person who**  
 20          **commits capital murder under IC 35-42-1-1.5 is the death penalty.**  
 21          **However, if the court determines that the mitigating factors**  
 22          **considered under IC 35-38-1-7.1(c) outweigh the aggravating**  
 23          **factors considered under IC 35-38-1-7.1(b), the sentence shall be**  
 24          **life imprisonment without parole.**

25          **(b) If a court determines that a person convicted of capital**  
 26          **murder under IC 35-42-1-1.5 is a mentally retarded individual**  
 27          **under IC 35-36-9, the person shall receive a sentence of life**  
 28          **imprisonment without parole.**

29          SECTION 5. [EFFECTIVE JULY 1, 2003] **IC 35-42-1-1.5 and**  
 30          **IC 35-50-2-8.3, both as added by this act, apply to offenses**  
 31          **committed after June 30, 2003.**

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